



## **OMBUDSMAN'S REPORT**

### **Complaint Investigation & Findings**

*OMB10/0030 - June 7, 2010*

#### ***THE SITUATION***

On an early Spring afternoon in 2010, the Complainant's juvenile son, Witness #1, was walking home from his junior high school. When the pedestrian light at the intersection of State St. and 36<sup>th</sup> St. turned white, indicating it was safe to cross, the Complainant began to cross State Street, heading south towards the southeast corner of the intersection. The Complainant crossed in front of a BPD car that was stopped in the right hand lane of westbound State St. waiting to turn right onto northbound 36<sup>th</sup> St. As Witness #1 began to walk in front of the police car, the car began to move forward into the crosswalk.

#### ***THE COMPLAINT***

The Complainant alleged that Officer #1, who had a red signal light, violated Witness #1's right of way in the crosswalk and bumped him with the front push bumper of the police car. No claim of injury to Witness #1 was made. This allegation, if proven true, may have been a violation of the Boise Police Department's Policy § 7.06.02 Guidelines for Use (of a Department vehicle).

#### ***THE COMPLAINT INVESTIGATION***

The following steps were taken in the course of this investigation.

1. Witness #1 was interviewed.

2. Extensive research of police activity and dispatch records was conducted in order to identify the officer who was driving the police car reported by Witness #1.
3. Officer #1 was interviewed.

### ***WHAT THE COMPLAINT INVESTIGATION FOUND***

Based on the preponderance of the evidence obtained and reviewed in the course of this investigation, the following findings of fact are made.

1. Officer #1 was operating a BPD patrol vehicle in the right turn lane of westbound State Street at 36<sup>th</sup> Street.
2. Officer #1 brought his vehicle to a stop at the crosswalk for a red light.
3. Officer #1 looked to his right and then to his left as he waited for an opportunity to make his right turn.
4. Sometime after Officer #1 stopped his vehicle at the crosswalk, the pedestrian light turned from red (wait) to white (walk) for crossing State Street from the northeast corner to the southeast corner of the intersection of State Street and 36<sup>th</sup> Street.
5. After the pedestrian light turned white, Witness #1 entered the crosswalk from the northeast corner of State Street and 36<sup>th</sup> Street and began to walk south across State Street.
6. While the light for his direction of travel on State Street was still red, Officer #1 began to make his right turn and drove the car into the crosswalk. Officer #1 did not look to the right a second time before beginning his turn and driving into the crosswalk.

7. Witness #1, while in the crosswalk, was directly in front of Officer #1's police car as Officer #1 began his right turn and moved the car forward into the crosswalk.
  
8. Witness #1 received no injuries as a result of this incident.

### ***OMBUDSMAN'S ANALYSIS***

The Boise Police Department's policy § 7.06.02 Guidelines for Use (of assigned vehicle) states, in relevant parts:

*The following guidelines shall apply to the operation of an assigned vehicle:*

- *An employee will always operate his/her vehicle in a manner that will not bring criticism or disfavor to himself/herself or the Department.*

Officer #1 caused his assigned BPD vehicle to encroach into the crosswalk as Witness #1 was crossing directly in front of the car. Officer #1 had a red light and Witness #1 had a white (walk) pedestrian signal. Although Officer #1 was authorized to make a right turn on red, he could only do so after yielding the right of way to Witness #1. It is indeed fortunate that Witness #1 was not knocked to the ground and injured.

I found no evidence that Officer #1 was operating his assigned vehicle in a reckless manner; nor was there any reason to believe that Officer #1 intentionally drove towards or into Witness #1. Nonetheless, Officer #1 did not take a second look to his right to make certain that his path was clear before moving into the crosswalk and beginning his right turn. As a result, Witness #1, a juvenile, was frightened by having the police car encroach into the crosswalk and begin to drive right towards him.

Based on the evidence available to me from this investigation, I was unable to determine whether or not the front push bumper of the police car actually made contact with Witness #1.

Since no injury resulted from this incident, it is tempting to view Officer #1's action as a minor driving mistake. Had he been off duty and driving his personal car, it is likely that nothing more would have come of Witness #1's close encounter with a car in the crosswalk. However, BPD policy sets a high standard for its employees while operating Department vehicles: "An employee will always operate his/her vehicle in a manner that will not bring criticism or disfavor to himself/herself or to the Department."

Given the standard imposed by BPD Policy § 7.06.02 and the facts of this case, I find that Officer #1 violated that policy and have issued a sustained finding in connection with the allegation made.

### ***OMBUDSMAN'S POLICY FINDINGS***

#### Officer #1

P.M. § 7.06.02 – Guidelines for Use (of assigned vehicle) – Based on the preponderance of the evidence, a finding of sustained has been issued.



---

Pierce Murphy  
Community Ombudsman  
P.O. Box 500  
Boise, Idaho 83701-0500  
(208) 395-7859  
[mailbox@boiseombudsman.org](mailto:mailbox@boiseombudsman.org)